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MAR 0 5 2019

Via Certified Mail –
Return Receipt Required

March 1, 2019

David Mickaelian, City Manager
Members of the City Council
City of Healdsburg
401 Grove Street
Healdsburg, CA 95448

Larry Zimmer, Public Works & Transportation Director
Head of Agency
City of Healdsburg
401 Grove Street
Healdsburg, CA 95448

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)

Dear Ms. Mickaelian, Members of the City Council, Mr. Zimmer and Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 et seq., that River Watch alleges are occurring through the ownership and/or operation of the City of Healdsburg Wastewater Treatment, Recycling, and Disposal Facility (the "Facility") and its associated sewer collection system.

River Watch hereby places the City of Healdsburg, (the "Discharger") as owner and operator of the Facility and its associated collection system, on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the Discharger for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board, North Coast Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the Discharger's National Pollution Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, which has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in an NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition such that violation of a permit limit places a discharger in violation of the CWA. River Watch alleges the Discharger is in violation of the CWA by violating the terms of its NPDES permit.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. (See 33 U.S.C. § 1342(b).) In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board ("SWRCB") and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the Discharger's operations in the region at issue in this Notice is the Regional Water Quality Control Board, North Coast Region ("RWQCB").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute. (See CWA § 505, 33 U.S.C. § 1365.) River Watch is exercising such citizen enforcement to enforce compliance by the Discharger with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The Specified Standard, Limitation, or Order Alleged to Have Been Violated

River Watch contends the order being violated is NPDES No. CA0025135, SWRCB Order No. R1-2016-0016, ("modified in accordance with Order R1-2017-0047 on December 13, 2017"), referred to hereafter as "the NPDES Permit". River Watch has identified specific violations of the NPDES Permit including raw sewage discharges and failure to either comply with or provide evidence that the Discharger has complied with all the terms of the NPDES Permit.

2. The Activity Alleged to Constitute a Violation

River Watch contends that from January 31, 2014 through January 31, 2019, the Discharger has violated the Act as described in this Notice. River Watch contends these violations are continuing or have a likelihood of occurring in the future.

A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts

i. Sanitary Sewer Overflows Occurrence

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above-ground from the collection system prior to reaching the Facility, are alleged to have occurred both on the dates identified in California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports, and on the dates when no reports were filed by the Discharger, all in violation of the CWA.

The Facility's aging sewer collection system has historically experienced high inflow and infiltration ("I/I") during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure, causing SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains connected to adjacent surface waters including Foss Creek, the Russian River and the Pacific Ocean - all waters of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the "Total Number of SSO locations" as 80, with 174,319 "Total Vol. of SSOs (gal)" discharged into the environment. Of this total volume, the Discharger admits at least 155,890 gallons, or 89% of the total, reached a surface water. These discharges pose both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial endangerment to health and the environment.

A review of the CIWQS SSO Reporting Program Database specifically identifies 9 recent SSOs reported as having reached a water of the United States, identified by Event ID numbers 840679, 834555, 834498, 834383, 833954, 833748, 833747, 811650, and 811649. Included in the 9 reported SSO events are the following incidents:

October 05, 2017 (Event ID# 840679) – an SSO estimated at 127,602 gallons occurred at 1031 Vine Street as a result of a gravity mainline failure. All 127,602 gallons reached Foss Creek through a storm drainage channel.

April 12, 2017 (Event ID# 834555) – an SSO estimated at 23,040 gallons occurred at a manhole at 481 Hidden Acres Drive as a result of root intrusion. No sewage was recovered, with all 23,040 gallons discharged to the Russian River.

March 24, 2017 (Event ID# 833954) – an SSO estimated at 1,400 gallons occurred at 711 Heron Drive caused by a pump station failure. No sewage was recovered, with all 1,400 gallons entering a storm drain and discharging to the Russian River.

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, these alleged discharges are violations of the Discharger's NPDES Permit, specifically Order No. CA0025135, which states in Section III. Discharge Prohibitions:

A. The discharge of any waste not disclosed by the Discharger and not within the reasonable contemplation of the Regional Water Board is prohibited.
B. Creation of pollution, contamination, or nuisance, as defined by section 13050 of the Water Code is prohibited...
D. The discharge or recycling use of untreated or partially treated waste (receiving a lower level of treatment than described in section II.A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provisions G (Bypass) and H (Upset).
E. Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the state or (b) land and creates pollution, contamination, or nuisance, as defined in Water Code section 13050(m) is prohibited...
G. The discharge of waste at any point not described in Finding II.B of the Fact Sheet or authorized by a permit issued by the State Water Resources Control Board (State Water Board) or another Regional Water Board is prohibited...
I. The discharge of waste to the Russian River and its tributaries is prohibited during the period from May 15 through September 30 of each year.

ii. Inadequate Reporting of Discharges

a. Incomplete and Inaccurate SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact upon public health and the environment. The Discharger's SSO Reports, which should reveal critical details about each of these SSOs, lack responses to specific questions that would present sufficient information to accurately assess and ensure these violations would not recur.

In addition, following a review of the Discharger's SSOs, River Watch's expert believes many of the SSOs reported by the Discharger as not reaching a surface water did in fact reach surface waters, and those reported as reaching surface waters did so in greater volume than stated. River Watch's expert also believes that a careful reading of the time when the SSO began, the time the Discharger received notification of the SSO, the time of its response, and the time at which the SSO ended, too often appear as unlikely estimations. For example:

March 30, 2014 (Event ID #834498) – an SSO estimated at 10 gallons occurred at 75 West Matheson Street due to an operator error during construction. The spill start time is reported as 11:32 and the agency notification at 11:36. The operator arrival is listed as 11:40 and the spill end at 11:33 (7 minutes before the operator arrival).

August 22, 2017 (Event ID #839887) – an SSO estimated at 5 gallons occurred at 522 Johnson Street due to Grease Deposition (FOG). The estimated spill start time is 18:36 and the agency notification just 4 minutes later at 18:40. Even though the operator does not arrive until 19:17, the spill ends at 19:26. Under question #29: "Explanation of volume estimation method used" the answer given is "eyeball estimation".

August 13, 2018 (Event ID #850554) – an SSO estimated at 55 gallons occurred at the intersection of Terrace Boulevard and Lupine Road due to the flow exceeding capacity. The estimated spill start time and agency notification are both listed as 15:15 and the operator arrival just 15 minutes later at 15:30. The spill end is listed as 15:20 - ten minutes before the operator arrival. Under question #29: "Explanation of volume estimation method used" the answer given is "visual - estimated area the same size as a 55 gallon barrel dumped out." Although the flow reached the street/curb and gutter the Discharger claims no sewage reached a surface water.

Given the unlikely accuracy of the times and intervals provided in these reports, it is difficult to consider the stated volumes as accurate. Without correctly reporting the spill start and end time, there is a danger that the duration and volume of a spill will be underestimated.

b. Failure to Warn

The Discharger has not posted any warning signs for the 8 most recent SSOs (Event ID#s 834555, 834498, 834383, 833954, 833748, 833747, 811650, 811649) which reached a surface water. River Watch contends the Discharger is understating the significance of the impacts of its CWA violations by failing to post health warning signs for all SSOs which pose an imminent and substantial endangerment to health or the environment regardless of location.

iii. Failure to Mitigate Impacts

River Watch contends the Discharger fails to adequately mitigate the impacts of its SSOs. The Discharger is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR requires the Discharger to take all feasible steps, and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

A critical remedial measure is the performance of adequate sampling to determine the nature and impact of the release. As the Discharger is severely underestimating SSOs which reach surface waters, River Watch contends the Discharger is not conducting sampling on most SSOs.

The EPA's *"Report to Congress on the Impacts and Control of CSOs and SSOs"* (U.S. Environmental Protection Agency, Office of Water (2004)) identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous biological habitat areas exist within areas of the Discharger's SSOs. Neighboring waterways include sensitive areas for steelhead trout, coho salmon, and chinook salmon. River Watch finds no record of the Discharger performing any analysis of the impact of its SSOs on habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies containing biological habitat from the impacts of SSOs.

B. Sewer Collection System Subsurface Discharges Caused by Underground Exfiltration

It is a well-established fact that exfiltration caused by structural defects in a sewer collection system result in discharges to adjacent surface waters either directly or via underground hydrological connections. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

River Watch contends untreated or partially treated sewage is discharged from the Discharger's collection system either directly or via hydrologically connected groundwater to surface waters including Foss Creek, the Russian River and the Pacific Ocean. Due to SSOs, surface waters become contaminated with pollutants, including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, and video inspection as well as testing of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Any exfiltration found from the Discharger is a violation of its NPDES Permit and thus the CWA.

C. Violations of Effluent Limitations and Monitoring Requirements

A review of the Discharger's Self-Monitoring Reports ("SMRs") identifies the following violations of effluent limitations imposed under the Discharger's NPDES Permit:

i. Reported Violations

a. Deficient Monitoring

4 violations of NPDES Permit, Attachment E - Monitoring and Reporting Program (MRP), IV. Effluent Monitoring Requirements:

(05/06/2015) Contract Lab error resulting in failure to analyze the following constituents: Nitrite Total (as N), Nitrate Total (as N), and Chloride. (Event ID# 992638)

(05/06/2015) Missing Lab results from REC-002 sampling point (Nitrite Total as N, Nitrate Total as N, and Chloride), due to failure to analyze grabbed samples within sample hold time. (Event ID# 1004001)

(03/03/2015) Facility SCADA software faulted, possibly during updating, deleting daily report data on date of occurrence. (Event ID# 992285)

(03/03/2015) The facility's SCADA software failed, resulting in the deletion of daily report data. (Event ID# 1004000)

b. Violations of Effluent Limitations

8 violations of the NPDES Permit, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations - Discharge Point 001:

(07/22/2016) Copper, Total Recoverable 1-Hour Average (Mean) limit is 10.9 ug/L and reported value was 12 ug/L at EFF-001. (Event ID# 1021416)

(07/22/2016) Copper, Total Recoverable Monthly Average limit is 10.9 ug/L and reported value was 12.0 ug/L at EFF-001.(Event ID# 1012110)

(04/13/2016) Copper, Total Recoverable Monthly Average limit is 10.3 ug/L and reported value was 015 ug/L at EFF-001. (Event ID# 1021415)

(04/13/2016) Copper, Total Recoverable Monthly Average limit is 10.3 ug/L and reported value was 15 ug/L at EFF-001. * "MMP Exempt Reason: Not a violation = Meets DAILY MAXIMUM Limit of 16.7 ug/L." (Event ID# 1008115)

(10/31/2015) Copper, Total Recoverable Monthly Average of Daily Maximum is 10.9 ug/L and reported value was 11.5 ug/L at EFF-001. (Event ID# 1004002)

(10/26/2015) Copper, Total Recoverable Monthly Average (Mean) limit is 10.9 ug/L and reported value was 12.0 ug/L at EFF-001. * "MMP Exempt Reason: Not a violation = Meets DAILY MAXIMUM Limit of 17.5 ug/L." (Event ID# 999940)

(10/07/2015) Copper, Total Recoverable Monthly Average Limit is 10.6 ug/L and reported value was 11.0 ug/L at EFF-001. * MMP Exempt Reason: Not a Violation = Meets DAILY MAXIMUM Limit of 17.1 ug/L. (Event ID# 999939)

(08/06/2014) Copper, Total Recoverable Monthly Average of Daily Maximums limit is 10.2 ug/L and reported value was 12 ug/L at EFF-001. (Event ID# 976875)

c. Violation of Chronic Toxicity

1 violation of NPDES Permit, IV. Effluent Limitations and Discharge Specifications:

(03/31/2014) Chronic Toxicity (Species 2) Single Sample Maximum limit is 1 TUc and reported value was 4 TUc at EFF-001. (Event ID# 973204)

d. Violations of Order Conditions

4 violations of NPDES Permit, IV. Effluent Limitations and Discharge Specifications:

(07/01/2015) Recycled water distributed outside of trucked agricultural use hauling boundary. (Event ID# 998368)

(06/01/2015) Recycled water applied to a vineyard dust control and micro irrigation at a location outside of a recycled water hauling boundary. (Event ID# 1003703)

(05/01/2015) Recycled water distributed outside of trucked agriculture hauling boundary.(Event ID# 993270)

(07/01/2014) Recycled water used for dust control and vineyard irrigation was trucked outside of established hauling area during the July - September irrigation season. (Event ID# 996200)

ii. Unreported Violations

3 violations of NPDES Permit; Attachment E, X. Reporting Requirements, B. Self-Monitoring Reports (SMRs), Table E-6. Monitoring and Reporting Schedule - Monthly.

Failure to submit monthly report: August 2016 - December 2016
Failure to submit monthly report: January 2018 - December 2017
Failure to submit monthly report: January 2018 - December 2018

E. Impacts to Beneficial Uses

Discharges in excess of effluent limitations, SSOs, and overwhelming already saturated irrigation fields cause prohibited pollution by unreasonably affecting beneficial uses of neighboring waterways.

The Russian River Watershed encompasses 1,500 square miles of forests, agricultural land, and urban areas within Sonoma and Mendocino Counties. The Russian River is approximately 110 miles long and flows from its headwaters near Redwood and Potter Valleys into the Pacific Ocean between Jenner and Goat Rock Beach, approximately 60 miles north of San Francisco's Golden Gate bridge. With an annual average discharge of approximately 1,600,000 acre feet, it is the second-largest river flowing through the greater San Francisco Bay Area.

Foss Creek is a tributary of the Russian River. It passes through the City of Healdsburg from north to south, originating near Passalacqua Road and flowing into Dry Creek near the U.S 101 Central Healdsburg interchange. The Russian River passes through Healdsburg on its way to the Pacific Ocean just upstream of U.S. Route 101's Healdsburg crossing.

The Russian River is a vital Northern California resource providing water for residential and agricultural use. The Sonoma County Water Agency draws drinking water from the Russian River for sale to several hundred thousand residents of Sonoma, Mendocino, and northern Marin counties. Santa Rosa's Laguna Wastewater Treatment Plant treats sewage from several communities to tertiary standard and returns some of it to the Russian River by way of the Laguna de Santa Rosa.

The Russian River watershed provides food and shelter for multiple species of invertebrates, reptiles, amphibians, mammals and birds. Wildlife communities in the watershed area are an important part of the ecosystem and its health. The Russian River is the largest river in the Central California Coast Steelhead trout Distinct population segment. The River provides wildlife habitat including warm and cold freshwater

habitat for fish migration and spawning and is home to 34 species of fish including the endangered Coho Salmon and California Freshwater Shrimp and threatened Chinook Salmon and Steelhead Trout. Other fish species in the Russian River watershed include Sacramento Suckaers, Tule Perch, American Shad, Pikeminnow, Hardhead, Bluegill, Large and Smallmouth Bass, Catfish, Lamprey and Carp. Other species of concern include the Western pond turtle, western tailed frogs, California tiger salamanders, and yellow-legged frogs.

Water bodies in the Russian River watershed are listed under CWA § 303(d) as impaired due to several pollutants. The entire Russian River watershed is impaired for sediment and temperature. Recent data shows a pathogen impairment throughout the watershed as well. Water quality monitoring from the Russian River and its tributary creeks reflect widespread contamination with bacteria and other indicators of waste which pose a potential threat to the health of the ecosystem and the people who visit it.

River Watch is understandably concerned as to the effects of both surface and underground exceedances of the Discharger's NPDES Permit limitations to beneficial uses applicable to the Russian River and its tributaries, as well as the impacts of SSOs in and around the diverse and sensitive ecosystem of the Facility and the locations where SSOs from the Discharger's collection system have occurred.

3. The Person or Persons Responsible for the Alleged Violation

The entity responsible for the alleged violations identified in this Notice is the City of Healdsburg, as owner and operator of its Wastewater Treatment, Recycling, and Disposal Facility and its associated collection system.

4. The Location of the Alleged Violation

The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the Discharger which relate to its ownership and operation of the Facility and associated sewer collection system as described in this Notice.

The municipal wastewater treatment facility and associated wastewater collection, recycling, and disposal facilities owned by the Discharger serves a population of 12,200 residential, commercial, industrial, and municipal users. The Facility is located approximately 1 mile south of the City of Healdsburg, just west of the Russian River. Treated wastewater is discharged from Discharge Point 001 to Basalt Pond. Basalt Pond is physically connected to the Russian River within the Geyserville Hydrologic Subarea of the Russian River Hydrologic Unit.

The Discharger's wastewater collection system includes approximately 52 miles of sewer mains, 979 manholes, 12 sewer lift stations, and several miles of pressurized force main. Approximately 34% of the collection system is between 50 and 100 years old and 40% is between 25 and 50 years old. Mains range in size from 4 to 33 inches. Collection system pipe materials include asbestos cement pipe, vitrified clay, cast iron, and polyvinyl chloride (PVC). Sewer lift stations located throughout the City of Healdsburg convey sewage from isolated low-lying areas into the gravity main system. All sewage discharged to the collection system is ultimately collected and conveyed through a 33-inch gravity main to the Magnolia Lift Station.

The Magnolia Lift Station, handles all of the City of Healdsburg's sewage and includes 4 dry pit 50-hp vertical turbine pumps with a variable frequency drive level control system. These pumps draw sewage from the wet well and pass it through 2 parallel 3,700-foot long, 14-inch diameter force mains to the Facility. During periods of high flow, multiple pumps will run automatically to handle the increased flow rate. A comminutor/grinder reduces large solids to less than a ¼-inch in size before being pumped to the Facility. Under all but wet weather conditions, the capacity of only one of the two 14-inch force mains is necessary.

The Facility is designed to treat an average dry weather flow of 1.4 mgd and a maximum peak wet weather flow of 4.0 mgd. The treatment system consists of influent screening and grit removal; biological removal of biochemical oxygen demand (BOD) and nitrogen in aerobic, anoxic, and pre-anoxic basins; microfiltration through a membrane bioreactor (MBR); ultraviolet (UV) light disinfection; and return activated sludge pumping from the MBR back to the aeration basins. Waste activated sludge pumping removes excessive biomass from the system followed by a proprietary sludge digestion process, dewatering via centrifuge, and disposal to a sanitary landfill.

The MBR combines the secondary biological treatment and immersed membrane filtration processes. The MBR consists of 5 membrane tanks containing immersed membrane filters with a total filter area of at least 250,000 square feet. The MBR system is designed to treat a peak daily flow of 4.0 mgd in 4 tanks with a fifth membrane tank, pump, and compressor available in a standby capacity. Instantaneous peak inflows may exceed 4.0 mgd, and the headworks structure is sized to accommodate peak inflow spikes up to 9.6 mgd.

Disinfection is achieved in an open channel UV disinfection system with sufficient low pressure/high output lamps to disinfect a peak daily flow of 4.0 mgd. The UV disinfection system is located downstream of the MBR tanks. The MBR filtrate pumps discharge directly to the UV basin. Filtered and UV disinfected wastewater flows by gravity to the 25 million gallon recycled water storage pond or Basalt Pond.

The Facility includes a 5-million gallon aerated influent equalization basin which provides equalization storage capacity for extended wet weather flows. Three ponds are available as emergency storage ponds providing an additional 15 million gallons of storage capacity and 24 hours of emergency storage capacity during peak flows. The Discharger has the ability to divert inadequately treated wastewater from downstream of the UV disinfection system to these ponds and return it to the headworks and tertiary treatment processes using portable pumping equipment.

The Facility discharges to Basalt Pond at Discharge Point 001 (38° 34' 48" N latitude and 122° 51' 48" W longitude) which is connected to the Russian River in the Geyserville Hydrologic Subarea within the Russian River Hydrologic Unit.

Basalt Pond is one of several existing gravel pits that were excavated adjacent to the Russian River in alluvial deposits of sand and gravel. These deposits are part of an important groundwater aquifer that supplies domestic and agricultural well water. Basalt Pond has a surface area of 52 acres, and a maximum depth of 55 feet. Basalt Pond was excavated between the late 1960s and mid-1980s by the Basalt Rock Company, as part of its gravel mining operation. Basalt Pond is currently owned by Syar Industries Inc. Basalt Pond was excavated in the historic flood plain of the Russian River. A levee, composed primarily of soil and alluvial material, was constructed to separate Basalt Pond from surface flows in the Russian

River. The levee is not an engineered barrier designed for impermeability that would prevent discharges of effluent from reaching the Russian River.

The discharge of wastewater by the Discharger to Basalt Pond is a discharge to waters of the United States and as such requires an NPDES permit. In an August 6, 2007 decision, the United States Ninth Circuit Court of Appeals affirmed the decision of the United States District Court for the Northern District of California which concluded that Basalt Pond is a water of the United States subject to jurisdiction under the CWA and that the pollutants traveling to the Russian River via hydrologically connected groundwater required the Discharger to obtain an NPDES permit. The Ninth Circuit Court held that discharges to Basalt Pond are subject to the CWA because Basalt Pond (1) contains wetlands that are adjacent to the Russian River, a navigable water of the United States, and (2) possesses a significant nexus to the Russian River because waters from Basalt Pond seep into the Russian River and significantly affect the physical, biological, and chemical integrity of the Russian River. (See *Northern Calif. River Watch v. City of Healdsburg*, 497 F.3d 993 (2007).)

The Facility also discharges treated wastewater to the 25 million gallon recycled water storage pond at Discharge Point 002. Recycled water from the storage pond is delivered by an effluent pump station to the recycled water distribution system.

5. Reasonable Range of Dates During Which the Alleged Activity Occurred

The range of dates covered by this Notice is January 31, 2014 through January 31, 2019. This Notice also includes all violations of the CWA by the Discharger which occur during and after this Notice period up to and including the time of trial.

6. Full Name, Address, and Telephone Number of the Person Giving Notice

The entity giving notice is California River Watch, referred to throughout this Supplemental Notice as "River Watch," an Internal Revenue Code § 501(c)(3) non-profit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 South Main Street, #817, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and groundwaters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to Attorney Jack Silver.

RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with the Discharger and its staff to tailor remedial measures to the specific operation of the Facility and associated sewage collection system. In advance of that conversation, River Watch identifies the following set of remedial measures that will advance compliance

with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns:

1. Determining the specific sewer collection system repairs required, and establishing deadlines for compliance.
2. Requiring implementation of an effective SSO reporting and response program.
3. Providing a lateral inspection and repair program.
4. Ensuring application of chemical root control complies with federal EPA or the RWQCB as well as manufacturer and Cal-OSHA requirements.
5. Keeping the Sewer System Management Plan for the Facility up-to-date and properly certified.
6. Promoting staff training and education.

CONCLUSION

The violations set forth in this Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch may use the affected watershed for recreation, swimming, fishing, hiking, photography or nature walks. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), §1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. §1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to $54,833.00 per day/per violation pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1-19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a 60-day "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact counsel for River Watch within 20 days after receipt of this Notice to initiate a discussion regarding the allegations detailed in this Notice. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Sincerely,

Jack Silver

JS

Service List

Andrew Wheeler, Administrator
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